

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

CHRISTOPHER A. JONES,  
Plaintiff,  
v.  
DWIGHT NEVEN, et al.,  
Defendant.

2:07-CV-1088 JCM (GWF)

Date: N/A  
Time: N/A

## ORDER

Presently before the court is plaintiff Christopher A. Jones' affidavit and motion in support of bias and/or prejudice of judge pursuant to 28 U.S.C. § 144. (Doc. # 95) No opposition to this motion has been filed.

Under 28 U.S.C. § 144 and 455(a) and (b)(1), “[a] judge is required to disqualify himself if his impartiality might reasonably be questioned, or if he has a personal bias or prejudice for or against a party.” *Hasbrouck v. Texaco, Inc.*, 842 F.2d 1034, 1045 (9th Cir. 1987). Judicial bias or prejudice formed during current or prior proceedings is insufficient for recusal unless the judge’s actions “display a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Pesnell v. Arsenault*, 543 F.3d 1044 (9th Cir. 2008); *Liteky v. United States*, 510 U.S. 540, 544-56 (1994). Judicial rulings will support a motion for recusal only “in the rarest of circumstances.” *Id.* at 555; *United States v. Chischilly*, 30 F.3d 1144, 1149 (9th Cir.1994).

In the present motion, plaintiff alleges that the presiding judge is “prejudice and hostile towards inmate litigation,” and that “he rejects [prisoners] from his court.” He further asserts that

1 the judge's actions were "calculated," and that he is "partial to the AG's office and the NDOC." To  
2 assure that he is no longer subjected to this, plaintiff asks that the case be reassigned to another  
3 judge. He attempts to support his allegations with the fact that the Ninth Circuit Court of Appeals  
4 filed a memorandum (doc. #90) partially vacating a previous order that the presiding judge had  
5 entered (doc. # 83) against him. In the memorandum, the Ninth Circuit held that the plaintiff did not  
6 have an "adequate opportunity to obtain and submit rebuttal evidence," and that his rights claimed  
7 under the Eighth Amendment were in fact "clearly established."

8        The judge’s ruling on a prior proceeding in this case does not support a finding that the judge  
9 possesses a “deep-seated favoritism” or personal bias against the plaintiff, and does not rise to a level  
10 that would be sufficient to warrant recusal or reassignment. Without such a finding, this court is not  
11 inclined to grant the motion to reassign the case.

12 || Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the plaintiff's motion to  
14 reassign the case (doc. # 95) be, and the same hereby is, DENIED.

15 DATED this 17<sup>th</sup> day of November, 2010.

Xelius C. Mahan  
**UNITED STATES DISTRICT JUDGE**